GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

DEPARTMENT OF TRIBAL WELFARE - Revision Petition is filed by Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, East Godavari District against the orders of the Agent to Government and District Collector, East Godavari District in CMA No.23/1991, Dated.21.11.1991 of lands in Sy.Nos.23/1A, 23/1C, 23/2, 24/1 and 24/2 measuring an extent of Ac.15.27 Cts of Dakarai Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District - Allowed - Orders - Issued.

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DEPARTMENT OF TRIBAL WELFARE

G.O.Ms.No.14 **Dated:15.03.2024.**
Read the following:-

1. Revision Petition dt.21.11.1991 filed by Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, East Godavari District.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.23/1991, Dt.27.10.2023.

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O R D E R:

In the reference 1st read above, Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, East Godavari District against the orders of the Agent to Government and District Collector, East Godavari District in CMA No.23/1991, Dated.21.11.1991 of lands in Sy.Nos.23/1A, 23/1C, 23/2, 24/1 and 24/2 measuring an extent of Ac.15.27 Cts of Dakarai Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District.

2. The Brief History of the case:

I. The Deputy Tahsildar (TW), Rajavommangi filed a complaint Under Section 3 of the APSA Land Transfer Regulation 1/59 as amended by Land Transfer Regulation 1/70 on behalf of the respondent for restoration of the Petition schedule land in Sy.Nos.23/1A, 23/1C, 23/2, 24/1 and 24/2 measuring an extent of Ac.15.27 Cts of Dakarai Village to the Petitioners from the respondent. The petition was numbered as LTRP No.83/1990.

II. After due enquiry, by following due process, the then Deputy Collector, Tribal Welfare, Rampachodavaram has ordered for decree ejectment of the respondent therein from the Petition schedule land and it to be restored to the petitioners therein, who are the legal heirs of the registered settlement pattadars vide LTRP No.83/1990, Dt:24.02.1991 and the case is allowed.

III. Aggrieved with the above orders of the then Deputy Collector, Tribal Welfare, Rampachodavaram, Sri. Datla Venkatapathi Raju S/o (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal has filed an appeal before the Agent to Government and Collector, East Godavari District seeking an order or direction to Set-aside the orders of the Deputy Collector (TW), Rampachodavaram issued in the above LTRP case and request to issue an order not to evict the appellant from the Petition Schedule Land. The Agent to Government and Collector, erstwhile East Godavari District, Kakinada while allowing the appeal made out the following issues from out of the pleadings of both the parties and based on the material placed before the court and the records available in the case.

1) The appeal schedule lands are situated in the scheduled area of Dakarai Village, Rajavommangi Mandal of Alluri Seetharama Raju District, erstwhile East Godavari District.

2) As per Settlement Register 1932-35 of Dakarai Village the Sy.Nos.23/1A, 23/1C, 23/2, 24/1 and 24/2 (Total measuring Ac.15.27 Cts) were registered in the name of Chapa Mallayya (Grandfather of 4th and 5th respondent and Father in law of 1st, 2nd and 3rd Petitioner in the Lower Court).

3) The Appellant's father Sri. Datla Venkatapathi Raju S/o Nagaraju (Appellant's father) purchased the petition schedule lands along with some others lands from Smt. Pappula Rajamma W/o Balayya and others vide registered Sale Deed No.1112, Dt:11.10.1941. This transaction is covered by the permission granted by the Revenue Divisional Officer, Peddapuram in his D.Dis.13815/41, Dt:30.6.1941.

4) As the matter stood thus, Smt. Chapa Bodemma W/o. Sanyasayya and 04 others have filed a complaint against Sri. Datla Venkatapathi Raju S/o Mugaraju before the Deputy Collector (TW) Rampachodavaram and requested to restore the Petition Schedule lands in their favour.

5) The then Deputy Collector, Rampachodavaram duly observed and consider the following points before issuing the orders.

   A. The respondent herein Smt. Chapa Bodemma W/o Sanyasayya and 4 others belong to Konda Kapu community, as per settlement Register the Petition Schedule lands were registered in the name of Chapa Mallayya, who was the Grandfather of 4th and 5th respondent and father in law of 1st, 2nd, and 3rd Petitioners in the Lower Court).

   B. The appellant Sri. Datla Venkatapathi Raju has deposed that the Petition schedule lands were purchased by his father Sri. Datla Venkatapathi Raju S/o Nagaraju from Smt. Pappula Rajamma W/o Balayya vide registered Sale deed No.1112 of 1941 Dt:30.10.1941. With permission from the Revenue Divisional Officer, Peddapuram vide D.Dis.3815/41, Dt:30.6.1941.

   C. The respondent deposed that Petition schedule lands in Sy.Nos.23/1A, 23/1C, 23/2, 24/1 and 24/2 (Total measuring Ac.15.27Cts) were registered in the name of Chapa Mallayya grandfather of petitioner were originally belonged to them and it has been taken by the respondents and they did not know the transfer took place.

   D. The petitioner further deposed that Smt. Pappula Rajamma W/o Balayya of Sarabhavaram has no relation with them or with the Petition schedule land. It is not clear how Pappula Rajamma came into possession of the Petition schedule land which was registered in the name of Chapa Mallayya.

   E. Smt. P. Rajamma has no right over the plaint schedule land and the sale transaction entered by her has no legal sanctity. Moreover, from the above it is clear that P. Rajamma has been a binami for the appellant father to acquire the tribal lands. The sale transaction, vide totally 85 void as P. Rajamma has no title over the land.

   F. The plaint schedule land stands registered in the name of 1st Petitioner's grandfather but presently it is in the possession of the Non-tribal respondent. Thus transfer of land has taken place

without permission of the Agent or Assistant Agent from the tribal petitioner's father to the respondent's father (Non-tribal) and is thus & void U/s. 4(1) of Act of 1/17 read with Sec.3(1) of A.P. (S.A.) Land Transfer Regulation 59.

G. Moreover it is to be noted that the respondent is not doing self-cultivation of the land and the cultivation is being done by one Radha Krishna Varma @ Krishnam Raju of Sarabhavaram Village, who is a Non-tribal, Raju by caste. Attention is drawn to Sec.2 (g) of A.P. Land Transfer Regulation 1959 wherein transfer means mortgage, lease, sale, gift, exchange or any other dealing with immovable property.

H. Considering the above facts, the then Deputy Collector, Tribal Welfare, Rampachodavaram, has passed orders for decree ejectment of the respondent therein from the Petition schedule land and it to be restored to the petitioners therein, who are the legal heirs of the registered settlement pattadars vide LTRP No.81/1990, Dt:21.02.1991 and the case is allowed

3. Aggrieved with the above orders of the then Deputy Collector, Tribal Welfare, Rampachodavaram, Sri Datla Venkatapathi Raju S/o (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal has filed an appeal before the Agent to Government and Collector, East GodaVari District, Kakinada seeking an order or direction to Set-aside the orders of the Deputy Collector (TW), Rampachodavaram issued in the above LTRP case and request to issue an order not to evict the appellant from the Petition Schedule Land.

4. The Agent to Government and Collector, East Godavari District, Kakinada has conducted hearings and heard the arguments of both parties and come to the conclusion after perusing the record, and findings of lower court and observed that,

i. The appellant and his council have failed to explain and establish as to how Smt. Pappula Rajamma came in possession of the petition schedule lands.
ii. Moreover the permission sated to have been granted by the Assistant Agent vide order of the Revenue Divisional Officer, Peddapuram dt.30.06.1941 for sale of the petition schedule land by Smt.P Rajamma does not indicate the name of the purchaser. The circumstance under which the permission was given is also not indicated in the order.
iii. Consequently it is difficult to accept the legality of the sale from Smt. Pappula Rajamma to the father of the appellant. Hence the appeal petition was dismissed and the orders of the lower court are confirmed.

5. Aggrieved by the above orders, Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, erstwhile East Godavari District, Alluri Sitharamaraju District has filed a Revision Petition before the Government and the orders of the Project Officer / Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.23/1991, dt.21.11.1991 in the interest of the justice.

6. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Ramapachodavaram in his letter Dt.27.10.2023 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.23/1991, dated.27.10.2023 and the remarks on the affidavit filed by the petitioner.

7. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 28.10.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the

connected records/relevant materials and Para-wise Remarks submitted dated:27.10.2023 by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

I. This Memorandum of Revision Petition is filed by Sri. Datla Venkatapathi Raju s/o (late) Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal against the orders of the Agent to Government and District Collector, East Godavari Districts Kakinada passed in CMA No.23/1991, Dt:21.11.1991 under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 while upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No. 83/1990, Dt:24.02.1991 in respect of lands in Sy. Nos. 23/1A, 23/1C, 24/1 and 24/2 measuring an extent of Ac.15.27cts of Dakarai. Village of Rajavommangi Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the respondent therein from the Petition Schedule land and restoration of the same to the Petitioners therein, who are the legal heirs of the registered settlement pattadars.

II. The matter came up for hearing finally before the Revision Authority on 28.10.2023 in the presence of Counsel for the Revision Petitioner and the Special Deputy Collector (TW) and Special Deputy Tahsildar (TW), Rampachodavararm the Additional Agent to Government furnished Para wise remarks in the matter. The Counsel for the Revision Petitioner also submitted written arguments. After perusing the material papers available in the file the following order is made.

III. The Revision Petitioner contends that the original petitioner Datla Venkatapathi raju died on dt:07-06-2007 leaving his wife the present Revision Petitioner Smt. Datla Padmavathi as a legal heir and that the permission of the Revenue Divisional Officer, Peddapuram was granted in F.Dis 3815/41, dt:30.06.1941 for the subject lands purchased on 30.04.1941 under registered sale deed No.1112/41 by the father of the deceased petitioner Sri. Datla Venkatapathi raju and that the lands have been in enjoyment of the Revision Petitioner here in and that earlier case in LTRP No. 173/77 and 70/88 filed on the same facts were dismissed and that jumping in to conclusion that Smt. Puppala Rajamma and others have no legal rights to sell the schedule lands to non tribals and permission granted by Revenue Divisional Officer permitting Smt. Puppala Rajamma has no legal sanction and that the Revision Petitioner Is not doing self -cultivation of the schedule, lands etc. are all not tenable and that there is no prohibited transfer involved in the case under the Regulations 1 of 70 and requested to set aside the orders passed by the Agent to Government, the then East Godavari District in the C.M.A.No.23/1991 and pass such other or further orders in the matter.

IV. The contention of the Additional Agent to Government is that as per the settlement register 1932-35 of Dakarai Village in Sy. Nos. 23/1A, 23/1C, 24/1 and 24/2 measuring an extent of Ac.15.27 cts were registered in the name of Chapa Mallayya, and that said lands were purchased by Sri. Datla Venkatapathi raju S/o Nagaraju from Smt. Pappula Rajamma, W/o Balayya and others through a registered Sale deed bearing no. 1112/41 on 11.10.1941 and said transaction is covered by the permission from Revenue Divisional Officer, Peddapuram on wide D.Dis.13815/41 Dt:30.06.1941 and that however it is not clear, how Smt. P. Rajamma came into possession of the Petition schedule lands when the landstood over in the name of Sri. Chapa Mallayya and that Smt. P. Rajamma has no right over the Petition schedule and that the sale transaction took place between Smt. P. Rajamma and Sri. Datla Venkatapathi raju has no legal sanctity and that the order passed by the Agent to Government is in accordance with the provisions of Land Transfer Regulations and requested to dismiss the Revision Petition.

V. As seen from the impugned order of the Agent to Government/District Collector of the then East Godavari District who passed the impugned order observed that the "While adducing evidence on behalf of the Appellant the advocate for the appellant has failed to explain as to how Smt. P. Rajamma came in possession of the petition schedule lands. Moreover the permission stated to have been granted by the Assistant Agent Vide order of the Revenue Divisional Officer, Peddapuram dated 30-06-1941 for sale of the petition schedule lands by Smt. P. Rajamma does not indicate the name of the purchaser. The circumstances under which the permission was given are also not indicated in the order. Consequently, it is difficult to accept the legality of the sale from Smt. Pappula Rajamma to the father of the Appellant. Hence the Appeal petition is dismissed and the orders of the Lower Court are confirmed."

VI. As per the Para wise remarks submitted by the Additional Agent to Government, that the subject lands are not under cultivation of the purchasers of the lands and lands are under occupation of some other non tribal namely Sri. Radha Krishna Varma @ Krishnam Raju of Sarabhavaram Village, which attract further to the provision of Set.2(g) of A.P. Land Transfer Regulation 1959 as amended by 1 of 70 wherein transfer means mortgage, lease, sale, gift, exchange or any other dealing with immovable property. The said transfer effected between non tribals after the commencement of Land Transfer Regulations 1 of 70 is null and void.

VII. The background of cases and rival submissions coupled with orders below and Para wise remarks give rise to following point for consideration.

VIII. The only question arises from the pleadings of the above is that whether the permission granted by the Revenue Divisional Officer, Peddapuram videD.Dis.381 5/41, Dt:30.6.1941 giving effect to the sale held between Sri Datia Venkatapathi Raju and Pappala Rajamma is valid under the provisions of AP Agency Area Land Transfer Act 1 of 1917 and subsequent Land Transfer Regulations 1 of 59 or not?

IX. Section 4 (1) of AP Agency Area Land Transfer Act 1917, affirms that "Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency Tracts by a member of a hilltribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer".

X. Agency Tracts Interest and Land Transfer Act, 1917 is an Act to regulate rate of interest and transfer of land in agency tracts. The prohibition imposed with certain restrictions on the- 'tribals' restraining them from transferring lands and properties to 'non-tribals' is understandable inasmuch as the objective is to ensure that the total extent of properties held by the tribals is not diminished.

XI. As seen from the documents that the permission which was granted to Pappula Rajamma by the Revenue Divisional Officer, Peddapuram under Act 1917 to sell the lands is valid under the provisions of AP Agency Area Land Transfer Act 1 of 1917 and subsequent Land Transfer Regulations 1 of 59.

XII. The order of the Revenue Divisional Officer, Peddapuram vide D.Dis 3815 /41, datedt:30-06-41 under Section 4 of the Act 1 of 1917 clear revels that said Rajamma had possession over the lands having right to sell the same and failure to produce the link document shall not be taken in to consideration that she failed to explain as to how she came into possession of the lands. It is evident that as per the permission that revenue authority concluded the title possession and enjoyment over the lands.

XIII. It is pertinent that earlier also cases were filed with regard to the self same lands in LTRP 173/77 and 70/88 enquiry the same was dismissed which itself shows that the permission is valid as per Act.

XIV. The burden is on the nontribal purchaser who purchased the subject lands in the scheduled area from a tribal to prove that he purchased lands without any violation of section 4 of the Act 1 of 1917 and subsequent Land Transfer Regulations 1959.

XV. In view of the above, and facts and circumstances of the case, it must be held that Smt. Pappula Rajamma who executed Registered Sale deed bearing No.1112/41 was a member of a scheduled tribe and the transfer in favour of Sri Datla. Venkatapathi raju by obtaining a valid permission of the Revenue Divisional Officer vide F.Dis 3815 /41 dt:30-06-41 under Section 4 of the Act 1 of 1917 is valid and petitioner discharged his burden by producing relevant documents.

XVI. In view of the above, in exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby allowed. The impugned order Passed by the Agent to Government, East Godavari District in CMANo.23/1991, Dt:21-11-1991 upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No.83/1990, Dt:24.02.1991 in respect of lands in Sy. Nos. 23/1A, 23/1C, 24/1 and 24/2 measuring an extent of Ac.15.27 cts of Dakarai. Village of Rajavommangi Village and Mandal, presently in Alluri Sitharamaraju District, ordering for decree ejectment of the non tribals respondents and restoration of the same to the Petitioners therein is hereby set-aside. As a sequel interim orders if any passed in the matter are hereby confirmed. Accordingly, the Revision Petition is here by allowed.

8. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition, filed by the Sri. Datla Venkatapathi Raju, S/o Late Venkatapathi Raju @ Mugaraju, Laxminarasapuram Village, Anaparthi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District is hereby allowed. Therefore the impugned order Dated:21.11.1991, passed by the Agent to Government in CMA No.23/1991, Dt.21.11.1991 upholding the orders passed by the Deputy Collector (TW), Rampachodavaram in LTRP No.83/1990, Dt.22.02.1991 in respect of lands in Sy.Nos.23/1A, 23/1C, 23/2, 24/1 and 24/2 measuring an extent of Ac.15.27 Cts of Dakarai Village, Rajavommangi Mandal, Alluri Sitharamaraju District erstwhile East Godavari District, ordering for decree ejectment of the non tribals respondents and restoration of the same to the Petitioners therein is hereby set-aside. As a sequel interim orders if any passed in the matter are hereby confirmed. Accordingly, the Revision Petition is here by allowed.

9. The Collector & District Magistrate, Alluri Sitha Rama Raju District Paderu, is requested to take necessary action in the matter.

10. This order shall be published in apegazette.cgg.gov.in

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Agent to Government cum Collector & District Magistrate,
Alluri Sitharama Raju District. 524341
The Additional Agent to Government cum Project officer,
ITDA, Rampachodavaram, Alluri Sitharama Raju District. 533288
The Special Deputy Collector (TW), Rampachodavaram,
Alluri Sitharama Raju District. 533288
Sri Kola Satyaprasad, Advocate,
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Cell No.9440041675.

Sri Datla Venkiatapathi raju,
S/o Venkatapathi raju,
R/o Laxminarasapuram (V), Anparthi Mandal,
erstwhile East Godavari District
Alluri Sitharama Raju District. 533450

Copy to:

The OSD to Hon'ble Deputy Chief Minister (TW).
The P.S. to Principal Secretary to Government (TW).
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M. Srinivasa Rao
SECTION OFFICER